

2003 DRAFTING REQUEST**Bill**Received: **11/12/2003**Received By: **chanaman**Wanted: **As time permits**

Identical to LRB:

For: **Donald Friske (608) 266-7694**By/Representing: **Jennifer**This file may be shown to any legislator: **NO**Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - drugs**

Extra Copies:

Submit via email: **YES**Requester's email: **Rep.Friske@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Use of over-the-counter substances

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	chanaman	kfollett	jfrantze		sbasford		
	12/03/2003	12/04/2003	12/04/2003		12/04/2003		
	chanaman	kfollett					
	12/23/2003	01/07/2004					
/1			rschluet		lnorthro	sbasford	State
			01/08/2004		01/08/2004	01/09/2004	Crime

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

sbasford
01/09/2004

FE Sent For:

<END>

↳ At
Intro.

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	chanaman 12/23/2003	kfollett 01/07/2004					
/1			rschluet 01/08/2004		lnorthro 01/08/2004		State Crime

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<END>

12/04/2003 10:58:58 AM

Page: 1

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/P1	chanaman 12/03/2003	kfollett 12/04/2003	jfrantze 12/04/2003		sbasford 12/04/2003		

FE Sent For:

11/15/03
11/7/03
1/6
4
<END>

11/12/2003 10:31:59 AM

Page 1

2003 DRAFTING REQUEST**Bill**

Received: 11/12/2003

Received By: chanaman

Wanted: As time permits

Identical to LRB:

For: Donald Friske (608) 266-7694

By/Representing: Jennifer

This file may be shown to any legislator: NO

Drafter: chanaman

May Contact:

Addl. Drafters: MGD

Subject: Criminal Law - drugs

Extra Copies:

Submit via email: YES

Requester's email: Rep.Friske@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

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Use of over-the-counter substances

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/P1	chanaman	1 P1 12/4	12/4	Self 12/4			

FE Sent For:

<END>

10/29/03

Mike,

This is the info on over-the-counter medication.

Specifically could you tell me what is or is not covered in current statute?

Could we do a preliminary draft that incorporates these ideas?

Let me know ~~what~~ what you think.

Thanks,

Jennifer

Western, Jennifer

From: Mike Hamann [mh1998@ci.merrill.wi.us]
Sent: Thursday, August 07, 2003 2:34 PM
To: Rep.Friske@legis.state.wi.us
Subject: Over the counter drugs

Follow Up Flag: Follow up
Flag Status: Completed

Rep. Friske:

Don:

I have been planning on speaking with you for some time in reference to a problem we have been experiencing in Merrill in the recent past. There was been a surge by young adults and teens to overdose on over the counter medications such as :Coricidan, Motion Sickness Medication, Huffing gas-paint-air freshner, etc. Today in Merrill there were two med calls for the over dose of Coricidan. One patient is on a respirator and the other is receiving a lesser amount of treatment.

The main reason for this e-mail is that there is no regulation or statutes to deal with the involved persons or the persons that teach others how or what to ingest.

I believe during your tenor at the sheriff's dept there was a young male that died from the intentional inhalation of gas fumes.

These acts are intentional on the part of the persons involved to receive a "high" but the overdoses are accidental.

Is there anyway your office could investigate or introduce legislation to provide a law enforcement tool for these intentional mis-use of over the counter medication and the inhalation or petroleum products or other products.

I am sure I am not the first person to try and have something done about this at a state level. But maybe if enough people are concerned enough something may be considered.

I believe California may have something on the books in regards to this.

Lt. Michael Hamann
Merrill PD
1004 E First Street
Merrill, Wi 54452

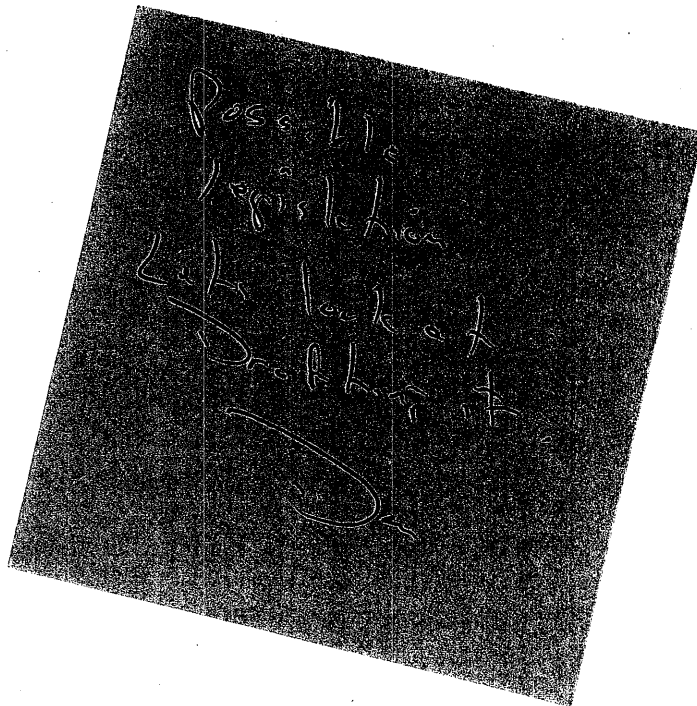
(715)-536-8311

*dextromethorphan
guaifenesin
phenylephrine*

Mike Hammond
Example legislation

- (1) It is unlawful for any person:
 - (a) To intentionally misuse, ingest, inhale, consume or otherwise use a product in a way not intended by the manufacturer in order to obtain a physical or mental impairment.
 - (b) To intentionally alter the chemical make up of a product not intended by the manufacturer when ingested in the altered state enhances or changes the physical or mental affects of a product upon a person.
 - (c) To procure products for other persons for the intentional misuse, etc...
 - (d) Penalties--misdemeanor
- (2) Procure product(s) for another to intentionally misuse, ingest, inhale, consume or otherwise use a product in a way not intended by the manufacturer.
 - (a) Procure product(s)..... and the use of the product causes bodily harm.
 - (b) Procure product(s).....great bodily harm....
 - (c) Procure product(s).....for a child
 - (e) Felony

(Section #2 may be covered by reckless endangerment)





State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3723/P1
CMH&MGD: *[Signature]*

*Thurs.
pm if
possible*

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 *gen cat*
AN ACT ...; relating to: use of household products and providing penalties.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 941.317 of the statutes is created to read:

3 **941.317 Misuse of household products.** (1) In this section:

4 (a) "Altered household product" means a household product that has been
5 altered in a manner that is not intended by the manufacturer of the household
6 product and that is intended by the individual who altered the household product to
7 impair physical or mental functions.

8 (b) "Household product" has the meaning given in s. 941.327 (1) (e).

9 (c) "Misuse" means to use a household product or altered household product,
10 in a manner that is not intended by the manufacturer of the household product, to

SECTION 1

1 intentionally impair physical or mental functions. "Misuse" includes ingesting,
2 inhaling, or consuming the household product or altered household product to impair
3 physical or mental functions.

4 (2) Whoever intentionally misuses a household product or ~~an~~ altered
5 household product is guilty of a Class A misdemeanor.

6 (3) Whoever intentionally procures a household product or ~~an~~ altered
7 household product for the use of another person if the person procuring the
8 ~~household product or altered household~~ product knew or should have known that the
9 other person intended to misuse the ~~household~~ product is guilty of the following:

10 (a) Except as provided in pars. (b) to (d) and sub. (4), a Class A misdemeanor.

****NOTE: I did not add a penalty for someone who attempts to procure; should one be added?

****NOTE: I did not add a penalty for someone who teaches someone either how to procure, misuse, or alter a household product or what products impair physical or mental functions; should one be added?

11 (b) A Class I felony if the misuse of the household product or altered household
12 product causes bodily harm to the person who misuses it.

13 (c) A Class F felony if the misuse of the household product or altered household
14 product causes great bodily harm to the person who misuses ~~the household product~~.

15 (d) A Class D felony if the misuse of the household product or altered household
16 product causes death to the person who misuses ~~the household product~~.

17 (4) Whoever intentionally procures a household product or altered household
18 product for the use of another person who has not attained the age of 21 is guilty of
19 a Class I felony if the person procuring the household product or altered household
20 product knew or should have known that the other person intended to misuse the

1 household product and knew or should have known that the person had not attained
2 the age of 21.

3 (END)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

AN ACT ^{regr cat} to create 941.317 of the statutes; ^{the} relating to: (use of household products) ^{and nonprescription drugs}
and providing penalties.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 941.317 of the statutes is created to read:

941.317 Misuse of household products. (1) In this section:

(a) "Altered household product" means a household product that has been altered in a manner that is not intended by the manufacturer of the household product and that is intended by the individual who altered the household product to impair physical or mental functions.

(b) "Household product" has the meaning given in s. 941.327 (1) (e).

(c) "Misuse" means to use a household product or altered household product, in a manner that is not intended by the manufacturer of the household product, to

SECTION 1

1 intentionally impair physical or mental functions. "Misuse" includes ingesting,
2 inhaling, or consuming the household product or altered household product to impair
3 physical or mental functions.

4 (2) Whoever intentionally misuses a household product or altered household
5 product is guilty of a Class A misdemeanor.

6 (3) Whoever intentionally procures a household product or altered household
7 product for the use of another person if the person procuring the product knew or
8 should have known that the other person intended to misuse the product is guilty of
9 the following:

10 (a) Except as provided in pars. (b) to (d) and sub. (4), a Class ^C~~A~~ misdemeanor.

****NOTE: I did not add a penalty for someone who attempts to procure, should one
be added?

****NOTE: I did not add a penalty for someone who teaches someone either how to
procure, misuse, or alter a household product or what products impair physical or mental
functions; should one be added?

11 (b) A Class ^{B misdemeanor}~~I felony~~ if the misuse of the household product or altered household
12 product causes bodily harm to the person who misuses it.

13 (c) A Class ^{A misdemeanor}~~I felony~~ if the misuse of the household product or altered household
14 product causes great bodily harm to the person who misuses it.

15 (d) A Class ^I~~I~~ felony if the misuse of the household product or altered household
16 product causes death to the person who misuses it.

17 (4) Whoever intentionally procures a household product or altered household
18 product for the use of another person who has not attained the age of 21 is guilty of
19 a Class ^{A misdemeanor}~~I felony~~ if the person procuring the household product or altered household
20 product knew or should have known that the other person intended to misuse the

1 household product and knew or should have known that the person had not attained
2 the age of 21.

3 (END)

D-NOTE

LRB-3723/ldm

cmH: kjf

Date

Representative Frisbie:

Per our phone conversation, this redraft incorporates the
changes
penalty changes you requested.

(91) I also added an analysis so the bill may
be introduced.

cmH

Please let me know if these
changes
changes are not what you
intended.

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3723/1ins
CMH&MGD:kjf:jf

ANALYSIS INSERT

in order

This bill prohibits a person from intentionally using a household product or nonprescription drug (product) in a manner that is not consistent with the manufacturer's intent to impair his or her physical or mental functions. Any person who violates this prohibition is subject to a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both.

In addition, this bill prohibits a person from intentionally procuring a product for another person if the person who procures the product (procurer) knows or should know that the other person intends to use the product in a manner that is not consistent with the manufacturer's intent to impair his or her physical or mental functions. The penalty for procuring the product increases as the harm to the person who used the product (user) increases. If the procurer procures the product for a person who is at least 21 years of age and the use causes no harm to the user, the procurer is subject to a fine not to exceed \$500 or imprisonment not to exceed 30 days, or both. If the use of the product causes bodily harm (physical pain or injury, illness, or any impairment of physical condition) to the user, the procurer is subject to a fine not to exceed \$1,000 or imprisonment not to exceed 90 days, or both. If the use of the product causes great bodily harm (bodily injury that creates a substantial risk of death, causes serious permanent disfigurement, or causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury) to the user, the procurer is subject to a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both. If the use of the product causes death to the user, the procurer is subject to a fine not to exceed \$10,000 or imprisonment not to exceed three years and six months, or both.

Finally, if the procurer procures a product for another person who is under the age of 21 and the procuring person knows or should know that the other person is under the age of 21 and that the other person intends to use the product in a manner that is not consistent with the manufacturer's intent to impair his or her physical or mental functions, the procurer is subject to a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both.

in order

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3723/1dn
CMH:kjf:rs

January 8, 2004

Representative Friske:

Per our phone conversation, this redraft incorporates the penalty changes you requested. Please let me know if these changes are not what you intended.

I also added an analysis so the bill may be introduced.

Cathlene Hanaman
Legislative Attorney
Phone: (608) 267-9810
E-mail: cathlene.hanaman@legis.state.wi.us

Basford, Sarah

From: Gary, Tim
Sent: Friday, January 09, 2004 9:07 AM
To: LRB.Legal
Subject: Draft review: LRB 03-3723/1 Topic: Use of over-the-counter substances

It has been requested by <Gary, Tim> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-3723/1 Topic: Use of over-the-counter substances

LRB-3723/1
Cmtt & MGD

CCC

to

2003 AB 818

Page 3, line 10:

delete "misdemeanor" and
substitute "felony".

Thanks

KJF

ASSEMBLY BILL 818

(3) Whoever intentionally procures a household product or altered household product for the use of another person if the person procuring the product knew or should have known that the other person intended to misuse the product is guilty of the following:

(a) Except as provided in pars. (b) to (d) and sub. (4), a Class C misdemeanor.

(b) A Class B misdemeanor if the misuse of the household product or altered household product causes bodily harm to the person who misuses it.

(c) A Class A misdemeanor if the misuse of the household product or altered household product causes great bodily harm to the person who misuses it.

(d) A Class I misdemeanor if the misuse of the household product or altered household product causes death to the person who misuses it.

(4) Whoever intentionally procures a household product or altered household product for the use of another person who has not attained the age of 21 is guilty of a Class A misdemeanor if the person procuring the household product or altered household product knew or should have known that the other person intended to misuse the household product and knew or should have known that the person had not attained the age of 21.

(END)

Follett, Kathy

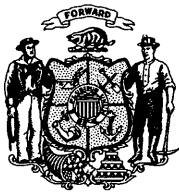
From: Dsida, Michael
Sent: Monday, February 09, 2004 3:00 PM
To: Follett, Kathy
Subject: ccc to AB818

can you do a ccc for a bill that you edited?

p. 3 line 10 should be felony, not misdemeanor

thanks.

Mike Dsida
Legislative Reference Bureau
608/266-9867
michael.dsida@state.legis.wi.us



State of Wisconsin
2003-2004 LEGISLATURE

CORRECTIONS IN:

2003 ASSEMBLY BILL 818

Prepared by the Legislative Reference Bureau
(February 10, 2004)

1. Page 3, line 10: delete "misdemeanor" and substitute "felony".